UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1265
7 July 1998

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1265th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 16 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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GE.98-15567 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh, twelfth, thirteenth and fourteenth periodic reports of the Libyan Arab Jamahiriya (CERD/C/299/Add.13; HRI/CORE/1/Add.77) (continued)

1. At the invitation of the Chairman, the delegation of the Libyan Arab Jamahiriya took seats at the Committee table.

2. Mr. SHAHI stressed the need to fill in the gaps in the report (CERD/C/299/Add.13) that had been mentioned by Mr. Garvalov, one of which was the lack of population statistics showing national origin. The Committee should be informed of the demographic composition of the group of over 7,500 non-Libyans from countries such as Egypt, Chad and Niger who were currently living in Libya because, while the Convention authorized distinctions between nationals and non-nationals, it did not authorize distinctions between different categories of foreigners. He recalled in that connection that, during his term as Minister for Foreign Affairs, he had succeeded in preventing the expulsion of 30,000 Pakistanis from Libya.

3. Information on Libya's Berber population was also lacking. He asked the Libyan delegation to substantiate the statement in paragraph 3 of the report - to the effect that Libyans were of common racial origin, professed Islam and spoke Arabic - with data on the ethnicity of Berbers and the racial affinities between Arabs and Berbers. He hoped that all non-Libyans would benefit from the wealth accruing to the country from oil.

4. Paragraphs 8, 17, 20 and 46 of the report outlined Libya's political structure and some of the rights protected by the country's basic legislation, but information was lacking on legal provisions for implementation of the Convention. For example, the Committee had not been informed of any specific legislation designed to implement article 4. Principle 17 of the Great Green Document on Human Rights in the Age of the Masses referred to in paragraph 23 of the report, under which Libya rejected any discrimination between human beings, was ineffectual unless enforced through corresponding legislation.

5. The same applied to article 5 of the Convention. While the report referred in several passages to the Penal Code, the Great Green Document and the Promotion of Freedom Act, which were certainly extremely important basic instruments, and occasionally mentioned steps to promote a particular right provided for in article 5, those indications were inadequate because they failed to give the Committee a clear idea of the extent to which legislation covered all relevant rights, or of its practical application, especially with regard to possible conflicts arising from unequal treatment of non-Libyans.

6. Information on the application of article 6 was also incomplete. Paragraph 79 of the report referred the Committee to details provided within the context of article 5, although the scope of the two articles was entirely different.

7. Commending Libya for submitting a report and sending a delegation, he expressed the hope that the fifteenth report would be more detailed and also more specific regarding the guarantee of equal rights, especially for non-Libyans.

8. Mrs. ZOU Deci asked how the notion of a minority was defined in Libya. It seemed from the previous day's responses that, since the Berbers were on very good terms with the Arabs and since other ethnic groups were few in number and widely dispersed, there were no minorities in the country. She challenged those criteria. A minority was not determined by the size of a particular group or its good or bad relations with the majority population group. What mattered was the existence of an identity and distinctive characteristics. And since the Berbers had their own language and customs, they should be viewed as a national minority. Moreover, it could not be inferred from the existence of only one nationality in a country that there was no racial discrimination. She hoped that Libya would adopt appropriate policies to implement the Convention and protect the rights of its minorities.

9. The CHAIRMAN, speaking as a member of the Committee, took up a point made by Mr. Shahi, which he felt called for closer scrutiny so that the Committee could agree on a position backed by solid arguments: the question of equal treatment of different categories of foreigners in a given country. All or nearly all States commonly afforded more favourable treatment to nationals of countries belonging to their own group, for example the European Union, the League of Arab States or the Organization of African Unity. The question arose as to whether States parties should be urged to abandon that practice.

10. Mr. QUATEEN (Libyan Arab Jamahiriya), Director of the Treaties and Legal Affairs Department of the General People's Committee for Foreign Liaison and International Cooperation, replied to questions raised by Mr. Garvalov. Although the latter had expressed doubts regarding the absence of racial discrimination in Libya, he assured him that, while there might be isolated individual cases like everywhere else in the world, racism as such was unknown. It was prohibited by religion and, to respond to another of Mr. Garvalov's concerns, it was also prohibited by law.

11. On the question of Berber, Tuareg and African minorities, he reiterated that the first two groups were of Arab origin, that Berber was an ancient Arab language and that attempts to draw distinctions between minorities and the majority or among different minorities were liable to create a problem where none had existed before. The name Tuareg simply designated desert Bedouins. As to the Blacks, they accounted for half the population of southern Libya, which did not prevent them from constituting with other Libyans a single people with a single language and a single religion, without distinction as to colour. There were also non-Libyans from sub-Saharan Africa living in Libya; some of them had employment contracts with corresponding rights and others were illegal immigrants but they were expelled only in the event that they failed to find work, as was the practice worldwide.

12. Mr. Garvalov had also inquired about differences in the treatment of Libyans and non-Libyans. Such differences existed only in respect of the exercise of political rights. Otherwise there was no discrimination in any

branch of daily life. Libya needed foreign manpower and the existing foreign workforce, composed of nationals of over 75 nationalities in the early 1980s, lived and worked under the same conditions as Libyans and enjoyed the same protection in the areas of justice, access to housing, health care, etc.

13. In conclusion, he assured the Committee that the requested statistical data would be provided in the next periodic report of the Libyan Arab Jamahiriya.

14. Mrs. SHELLI (Libyan Arab Jamahiriya), Counsellor, General People's Committee for Foreign Liaison and International Cooperation, replying to a question on the functioning of political institutions, said that legislative authority was vested in the General People's Congress, which was composed of representatives of extremely diverse bodies, as could be gathered from paragraph 10 of the report. An important organ of the Congress was its Secretariat, whose members were selected from among experienced candidates selected by their peers.

15. Every citizen took part in the life of the nation through his or her membership of the basic people's congresses, which were in turn represented in the General People's Congress. All matters of relevance to Libyan society, even questions raised by ordinary citizens, were first discussed in the basic people's congresses. The recommendations of the people's congresses were then submitted to the General People's Congress, which decided whether they should be given legal form and force. For example, it was following a recommendation by the basic people's congresses that the General People's Congress had ratified the Convention as well as other international instruments. Once ratified, the Convention had been published in the Official Gazette and publicized in all the media; it currently had the status of a law to which the Libyan State, its organs and its citizens were subject.

16. Mr. OUATEEN (Libyan Arab Jamahiriya) said that Africans who were legally employed in Libya enjoyed the rights set forth in their employment contract. With regard to illegal immigrants, if they found work, and the vast majority did, they were allowed to remain in Libya. The remainder were escorted to the frontier, as was the practice in most countries. Lastly, he pointed out that half the population was black-skinned and that there were no colour-related problems in the country.

17. He stressed that there was no discrimination against Berbers and Tuaregs, contrary to the allegations in the report of the Department of State of the United States to which Mr. Garvalov had referred, and that Blacks and Berbers in particular lived on an equal footing with other Libyans.

18. The tribe in Libya corresponded to what was usually referred to as the extended family. It was neither a community nor a sect, but constituted a social base that played a useful role for Libyan society and the State.

19. In addition to the Constitutional Declaration, the Great Green Document, the Promotion of Freedom Act and other instruments contained provisions similar to those of the Convention. For example, the Penal Code stipulated that anyone who impeded or sought to impede the holding of a religious rite

as punishable by one year's imprisonment. The desecration of religious sites and the publication of writings directed against any religion whatsoever were also punishable by law.

20. Referring to paragraph 35 of the list of issues submitted by Mr. Garvalov (document without a symbol distributed during the meeting), he said that the Constitutional Declaration, the Declaration Establishing the People's Authority, the Great Green Document and the Promotion of Freedom Act all had legal status.

21. The Convention formed an integral part of domestic legislation. It therefore had legal force and, like all other international instruments adopted by Libya, was reasonably compatible with national legislation, in particular the Shariah, which unequivocally enshrined human rights.

22. The provisions of the Penal Code, the Promotion of Freedom Act and the Great Green Document were consistent with those of article 5 of the Convention.

23. With regard to inheritance, Muslim rights were based on the Shariah, whose rules were applied by the courts. In the case of non-Muslims, the laws of their country of origin were applicable to foreigners and the precepts of their religion to Libyans.

24. Lastly, he said that the Koran was the primary source of the Shariah. The second source of law was the Sunna, a code based on the teachings and practices of the Prophet. The interpretations of Koranic exegetists were also taken into account.

25. Mrs. SHELLI (Libyan Arab Jamahiriya) said that the Shariah promoted the advancement of women, who were men's equals in terms of rights and duties.

26. Article 14 of the Constitutional Declaration stipulated that education was compulsory for all Libyans until the end of elementary schooling. The State built schools and universities in both urban and rural areas. There might be cases, although they were few and far between, of girls failing to attend school for family reasons.

27. Additional information would be provided in the next report on the incorporation of issues related to racial discrimination in education.

28. Women took part in all social activities. There were more and more women lawyers, diplomats and teachers. The Constitutional Declaration and the Great Green Document emphasized women's right to choose appropriate employment. Act No. 58 of 1970 concerning employment protected women against dangerous conditions of employment. There was provision for three months of paid maternity leave. Mothers were allowed one hour in the morning and one in the afternoon to nurse their child. Moreover, the establishment of kindergartens and nurseries left women free to work, and men and women received equal pay for equal work.

29. She had no knowledge of any case of racial discrimination brought before the courts or the Supreme Court.

30. With regard to the Convention, it had been published on adoption in the Official Gazette and publicized in the media and universities, just like all international treaties to which Libya acceded.

31. She said that, where there was a conflict between legislation and the Convention, it was the Convention which prevailed.

32. The CHAIRMAN expressed the view that many of the questions raised bore no relationship to the field of application of the Convention, for example those relating to the law of inheritance and the Shariah. Libya had certainly mentioned those matters in its report but the Committee should have avoided going into them in detail. Moreover, he regretted that the delegation had responded primarily to the questions raised by the Country Rapporteur, Mr. Garvalov, no doubt on account of the Committee's working method. Stressing that the questions asked by other experts serving on the Committee were of no less importance than those of the Country Rapporteur, he requested the delegation to give the same attention to all questions raised by Committee members and to overlook questions that had no bearing on the field of application of the Convention.

33. Mr. RECHETOV said he had also noted that the Libyan delegation had not replied to certain questions raised by the members of the Committee.

34. However, he welcomed the dialogue that had been established with the State party. His colleagues would no doubt recall a time in the not too distant past when the Libyan Arab Jamahiriya had been content to submit one-page reports to the Committee referring on all points to the precepts of the Koran. At the current session, the head of the Libyan delegation had admitted that cases of racial discrimination existed in the country, while insisting that they were individual cases unrelated to State policy. That argument, which was commonly adduced by States parties, was, of course, inadmissible as far as the Committee was concerned, because of the implication that States were exonerated of responsibility in the matter.

35. He hoped that the State party's next report would be more detailed and that the Libyan delegation would transmit the Committee's concerns to its Government.

36. Mr. GARVALOV (Country Rapporteur), summarizing the debate, said that, when transmitting his questions and observations to the Libyan delegation, he had not for a moment implied that it should not also respond to questions raised by other members of the Committee.

37. With regard to the Shariah, the status of women or the question of religion, subjects which had just been described as not really coming within the scope of the Convention, he had formulated his questions very carefully. Thus, he had basically sought to establish whether the Shariah was compatible with the provisions of the Convention and whether the Convention had higher authority in the domestic legal order. As it happened, the reply of the

Libyan delegation to the effect that the Convention took precedence over the Shariah in domestic law but was only "reasonably compatible" with it had left him feeling somewhat confused.

38. With regard to the religious issue, he had raised it mainly in order to clarify the situation of Blacks, Berbers and other non-Arab minorities.

39. On the whole, he felt that the Committee should be pleased with the dialogue it had established with the Libyan delegation, although that did not mean it was satisfied with the responses to all questions raised. Much more detailed information regarding, for example, articles 4 and 6 of the Convention and, above all, article 7 would have been useful. He welcomed the promise by the State party to provide detailed statistics on the composition of the population in its next report, since that would help to develop a clearer picture of the problem of the minorities which undoubtedly existed in Libya. In that connection, he stressed that the Committee in no way supported illegal immigration and could not blame a State party for adopting a strict policy on illegal immigrants. However, it needed information on the status of all foreigners and such immigrants fell into that category.

40. He hoped that the next report of the Libyan Arab Jamahiriya would be submitted in time and that the incipient dialogue would be continued.

41. Mr. QUATEEN (Libyan Arab Jamahiriya) said that the presence of the Libyan delegation before the Committee demonstrated the will of the national authorities to implement all international human rights instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination.

42. The delegation had replied primarily to the questions raised by the Country Rapporteur because they seemed to coincide with those of other members or at least to resemble them closely.

43. In response to a comment by Mr. Rechetov, he observed that no society in the world was perfect and that individual cases of discrimination existed everywhere. However, the Libyan State, like any civilized State, was resolutely opposed to such behaviour.

44. The Libyan delegation would endeavour to respond in its next report to all questions it had been obliged to leave pending owing to lack of information.

45. The CHAIRMAN said that the Committee had concluded its consideration of the eleventh, twelfth, thirteenth and fourteenth periodic reports of the Libyan Arab Jamahiriya.

46. The Libyan delegation withdrew.

The meeting was suspended at 11.50 a.m. and resumed at noon.

Tenth, eleventh, twelfth and thirteenth periodic reports of Cameroon (CERD/C/298/Add.3)

47. At the invitation of the Chairman, Mr. Youmsi, Mr. Eban and Mr. Ekoumou (Cameroon) took seats at the Committee table.

48. Mr. YOUMSI (Cameroon), Director of Legislation at the Ministry of Justice, introducing the report of Cameroon (CERD/C/298/Add.3), said that it was a composite document combining the tenth, eleventh, twelfth and thirteenth periodic reports that Cameroon should have submitted to the Committee in July 1990, 1992, 1994 and 1996 respectively. In accordance with the Committee's guidelines, the report consisted of a general part describing the framework and context in which the Government of Cameroon sought to implement the Convention, followed by a second part on the implementation of articles 2 to 7.

47. Cameroon was in all respects an extremely diverse country: in geographic, ethnic, historical, sociocultural, religious and economic terms.

50. Modern cultures shaped by a strong English and French influence had been grafted onto traditional local cultures. English and French were still the two official languages. Yet a breakdown of the population by mother tongue showed that there were 230 different ethnic groups in the country falling into five major categories. That ethnic diversity, compounded by climatic diversity, meant that development levels and potential were very uneven, some population groups such as the Pygmies and Bororos being particularly vulnerable.

51. Although Cameroon was a secular State, ethnic diversity entailed considerable religious diversity and the population included Christians, Muslims and animists.

52. But heterogeneity went hand in hand with great tolerance and a willingness to accept otherness. The 230 ethnic groups spread throughout the country lived together peacefully in a society based on exchange and sharing. It was in this comparatively favourable environment that the Cameroonian Government was endeavouring to pursue, step by step and depending on available resources and priorities, an effective policy of elimination of all forms of discrimination, in conformity with articles 2 to 7 of the Convention.

53. The measures taken at the national level to implement the basic provisions of the Convention were described in detail in the second part of the report. With regard to article 2, the Cameroonian Penal Code established the principle of the equality of all before the law and punished discriminatory behaviour. Discrimination was not only punishable as such but also constituted an aggravating circumstance when associated with certain criminal acts such as violence and assault.

54. At the same time, Cameroon pursued a policy of "affirmative action" to protect the most vulnerable (minors, pregnant women, the disabled), minorities or vulnerable groups such as the Bororos or Pygmies, on behalf of whom special measures were taken in the areas of education, training, health and integration.

55. In accordance with article 3 of the Convention, the Cameroonian Government had always condemned the apartheid policy in South Africa. There was no racial segregation in Cameroon because such an attitude would be incompatible with the Cameroonian mentality.

56. With regard to article 4, Cameroon vigorously condemned all racist propaganda; in particular, news media found guilty of fomenting tribal hatred were liable to very severe legal penalties. In addition, no political party which included among its objectives any form whatsoever of racial discrimination would be allowed to register.

57. Equal treatment before the courts and equal enjoyment of the civil rights referred to in article 5 of the Convention were guaranteed by the Constitution and various legislative provisions.

58. As provided for in article 6 of the Convention, victims of racial discrimination were entitled to just reparation. However, there were relatively few precedents because cases of discrimination were rare.

59. Lastly, with regard to article 7 of the Convention, education and training were designed to promote cultural intermixing and advocated peaceful coexistence, and the National Committee on Human Rights and Freedoms was doing valuable work in that area.

60. Mr. de GOUTTES (Country Rapporteur) said that on 13 March 1997 a Cameroonian delegation had provided the Committee, in oral form, with information on new facts and legislation relating to the implementation of the Convention and had announced on that occasion the submission of the report before the Committee, which demonstrated the Government's will to maintain a dialogue with the Committee in spite of various administrative difficulties. He commended the Cameroonian Government on sending a high-level delegation to underscore the importance it attached to the implementation of the Convention in its territory.

61. The first part of the report, which encompassed four periodic reports, reflected the Government's endeavour to comply with the Committee's guidelines on submission of periodic reports. The section on general ethnic, social, political, economic, cultural and institutional data concerning the country was particularly detailed and helpful, highlighting the great diversity of Cameroonian society, which reflected historical influences stemming from French and English colonization and from the large number of ethnic groups. It also provided useful demographic information concerning the country's 14,045,000 inhabitants, which included 230 ethnic groups falling into five major categories: the Bantu in the south, south-west, centre and south-east and on the coast, the semi-Bantu in the west and north-west, the Sudanese in the Adamaoua and the north, the Peulh, the Choa Arabs of the Lake Chad basin and the Pygmy population estimated at about 50,000 persons.

62. He noted with satisfaction that ethnic diversity, far from being a source of conflict and constituting an obstacle to coexistence, was perceived by the authorities and the population as a source of mutual enrichment (para. 8 of the report). However, various non-governmental organizations (NGOs) and the Department of State of the United States reported persistent

ethnic discrimination in favour of President Biya's Bulu ethnic group and the Beti ethnic group, which allegedly held key offices in the Government, the security forces and the army. Ethnic discrimination was also said to be widespread in other areas, as individual ethnic groups sought preferential treatment for their members. The Committee would appreciate clarifications in that regard.

63. Paragraphs 10 to 15 provided valuable information on socio-economic and cultural indicators, including figures for the main religions (Catholics, Muslims and Protestants), mother tongues, the literacy rate (at 68 per cent one of the highest in central Africa), the unemployment rate (about 20 per cent), and the foreign population (some 4 million people).

64. The report also provided information on the political structure (paras. 16 to 23) and the general framework within which human rights were protected (paras. 24 to 29). The Committee would appreciate more detailed information on the National Committee on Human Rights and Freedoms established by decree on 8 November 1990, particularly the means of action at its disposal and its main achievements. It would also welcome information on representative human rights NGOs which took part in the Committee's activities and on the kind of role they played.

65. The Committee was particularly interested in Cameroon's policy on minorities, especially its activities and programmes on behalf of the Pygmies in the eastern and southern provinces (paras. 39 to 44). He wondered, however, whether there was an element of ambiguity in the "Economic integration of the Baka/Bakola" project (para. 39) inasmuch as the strategy designed to "stabilize the Pygmies in their camps" could result in their continued isolation and marginalization. He wished to hear the delegation's views on the matter.

66. With regard to the implementation of articles 2 to 4 of the Convention, the information on criminal legislation sanctioning the different acts of racism referred to in article 4 of the Convention was inadequate. He reminded Cameroon that the Committee viewed the inclusion of general norms in the Constitution as inadequate for the purposes of article 4 of the Convention. Specific provisions were needed to criminalize acts such as the dissemination of racist ideas, incitement to racial discrimination, racial violence, provocation to such acts, assistance for racial activities and participation in racist propaganda organizations. In that respect, articles 241 and 242 of the Cameroonian Penal Code concerning racial defamation or insulting behaviour and denial of access to public places or employment on account of racial origin seemed to fall far short of the requirements of article 4 of the Convention.

67. He wished to hear from Cameroon about measures taken to supplement its penal legislation with a view to combating all possible forms of racial discrimination, as the Committee had requested when considering its previous reports. He reminded the delegation in that connection that, even if no racist circumstances or practices existed in a country, anti-racist penal legislation was necessary in any case to prevent any manifestation of such

phenomena and to reflect in the law the importance attached by the State to the values of interracial or inter-ethnic tolerance and understanding as part of a large-scale awareness-building effort.

68. With regard to the application of article 5 of the Convention, he found the information in paragraphs 51 to 54 unduly general and more relevant to the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights than to the fight against racial or ethnic discrimination within the meaning of article 5.

69. Referring to reports by Amnesty International, he asked what action had been taken by the Cameroonian Government on the request by the International Criminal Tribunal for Rwanda for the extradition of several Rwandese nationals accused of involvement in the 1994 genocide in Rwanda, and requested details concerning the arrest, prosecution and conviction of opponents of the Government, particularly members of the Democratic Social Front and the National Union for Democracy and Progress, but also students and journalists belonging to various news media, which had allegedly been suspended. The Committee would also appreciate information on the particularly harsh conditions of detention of prisoners in certain prisons in isolated areas such as Mantoum, New-Bell and Douala.

70. With regard to the application of article 5 (b) of the Convention concerning the right to security of person, he wished to know whether it was true, as stated in the 1997 report of Amnesty International, that traditional chiefs known as *lamibé* continued to hold political opponents in unofficial places of detention with the "tacit approval of the Government".

71. With regard to the implementation of article 5 (d) concerning freedom of expression, he wished to know whether it was true that the director of the private opposition media group Le Messager, Mr. Pius Njawé, had been sentenced to two years' imprisonment without parole for "spreading false news" in an article reporting that the Head of State had had a heart attack.

72. With regard to the application of article 6 of the Convention, he read in the report that "as discrimination based on race or religion is seldom found in the Cameroonian social mentality, no cases involving discrimination [...] are brought before the courts" (para. 56). He advised the delegation that the Committee generally found such arguments unconvincing. It was important for countries to provide it with statistical data on complaints, prosecutions, convictions and compensation awards relating to racist offences so that it could determine whether the Convention was being implemented effectively in practice. The fact that there had been no legal proceedings could be attributed to various factors, such as public ignorance or mistrust of the authorities, indifference on the part of the police and judiciary to racially motivated offences or failure by the judicial authorities to attach due importance to that type of unlawful behaviour. He therefore urged the Cameroonian Government to provide the Committee with more extensive information in its next periodic report on the implementation of article 6.

73. With regard to the application of article 7 of the Convention, the information given in paragraphs 57 to 61 of the report regarding education, culture and information was brief, very general and of little significance.

The Committee was unlikely to be convinced by the statement that information on racial discrimination was not a necessity in Cameroon inasmuch as the cultures of the various ethnic groups attached priority to welcoming foreigners, who were easily accepted and integrated (para. 59). The Cameroonian Government must therefore provide additional information in its next report on the measures it was adopting to ensure equality of treatment for different ethnic groups, to promote the most disadvantaged groups in the fields of teaching, education, culture, information and the media, and to inculcate respect for human rights and a spirit of inter-ethnic tolerance and understanding not only in teachers and students but also in law enforcement officials, in accordance with the Committee's General Recommendation XIII.

74. Additional information was also needed on the measures that the Government was taking to encourage action by anti-racist non-governmental organizations or associations and to facilitate their contacts with the authorities, and on measures to disseminate the Convention widely and to publicize the Government's periodic reports and the Committee's conclusions.

75. Lastly, the Committee would like to hear from the delegation whether the Cameroonian Government intended to make the declaration provided for in article 14 of the Convention and to accept the amendment to article 8, paragraph 6, concerning the financing of the Committee.

76. Conscious of having made heavy demands on the Cameroonian delegation, he said his object had been to facilitate the task of preparing their next periodic report. He drew attention to the possibility of using the advisory services offered by the secretariat of the Office of the High Commissioner for Human Rights.

77. The CHAIRMAN said that Mr. de Gouttes' inquiry about article 14 had been made in a personal capacity and announced that other members of the Committee would put additional questions to the Cameroonian delegation at the next meeting.

The meeting rose at 1 p.m.